



# KAHKEWISTAHA W FIRST NATION

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## KAHKEWISTAHA W LAND CODE

Attached is a true copy of the Kahkewistahaw Land Code, as amended and restated, dated July 8, 2019, which has been approved by the Members of the First Nation in accordance with the terms of the Land Code.

Dated the 29 day of July, 2019

### Kahkewistahaw First Nation

Chief Evan Taypotat

Councillor Michael Bob

Councillor Iris Taypotat-Scribe

Councillor William C. Kaysaywaysemat

Councillor Cory D. Alexson



**KAHKEWISTAHA W**  
**FIRST NATION**

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**KAHKEWISTAHA W LAND CODE**

Dated for Reference August 29, 2011  
As Amended and Restated July 8, 2019

CERTIFIED A TRUE COPY AS APPROVED BY THE  
ELECTORS OF KAHKEWISTAHA W

  
Kahkewistahaw First Nation

# KAHKEWISTAHAW LAND CODE

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# KAHKEWISTAHAW LAND CODE

## 1. Preamble

Whereas the Kahkewistahaw First Nation has a profound relationship with the land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve its relationship with the land;

And Whereas the *Framework Agreement on First Nation Land Management* was entered into by the Minister of Indian Affairs and Northern Development and fourteen First Nations on February 12, 1996, and which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*;

And Whereas the Kahkewistahaw First Nation has the option of withdrawing its lands from the land provisions of the *Indian Act* in order to exercise control over its lands and resources for the use and benefit of its members, rather than having its land managed on its behalf by Canada;

And Whereas the Kahkewistahaw First Nation wishes to exercise control over its lands and resources for the use and benefit of its members by adhering to the *Framework Agreement on First Nation Land Management* and by having the *First Nations Land Management Act* apply to its lands.

**NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAW OF THE KAHKEWISTAHAW FIRST NATION**

## 2. Title

Title

2.1 The title of this enactment is the *Kahkewistahaw Land Code*.

## 3. Interpretation

**Definitions**

3.1 In this Land Code,

- (a) **“Community Meeting”** means a community meeting held in accordance with the rules and procedures for a community meeting set out in the Community Meeting Rules and Procedures, called under this Land Code to which the Members are invited to attend, and if required the Eligible Voters to vote on a matter;
- (b) **“Community Meeting Rules and Procedures”** means the *Kahkewistahaw Community Meeting Rules and Procedures*, as amended or replaced from time to time;

- (c) **“Council”** means the duly elected Chief and Council of the Kahkewistahaw First Nation pursuant to the *Kahkewistahaw Election Act*, as amended or replaced from time to time;
- (d) **“Elder”** means a Member of the First Nation who is 60 years of age or older;
- (e) **“Eligible Voter”** means, for the purpose of voting in respect of land matters under this Land Code, a Member who has attained the age of eighteen (18) years of age as of the date a vote of the Eligible Voters is held;
- (f) **“First Nations Land Management Act”** means the *First Nations Land Management Act*, S.C., 1999, c. 24, as amended from time to time;
- (g) **“First Nations Land Register”** means the register established and maintained by the Department of Indian Affairs and Northern Development under the *Framework Agreement* and the *First Nations Land Management Act*;
- (h) **“Framework Agreement”** means the *Framework Agreement on First Nation Land Management* entered into between the Minister of Indian Affairs and Northern Development and fourteen First Nations, on February 12, 1996, as amended to include Kahkewistahaw, and which was ratified, on behalf of the Government of Canada, by the *First Nations Land Management Act*;
- (i) **“Indian Act”** means the *Indian Act*, R.S.C. 1985, c. I-5, as amended from time to time;
- (j) **“Interest”** means any interest, right or estate of any nature in or to Kahkewistahaw Land, including a lease, easement, right of way, servitude, or profit a prendre, but does not include title to that land;
- (k) **“Immediate Family”**, in respect of a person, means the person’s spouse or biological or adoptive parent, child, sister and brother;
- (l) **“Kahkewistahaw Financial Administration Law”** means the *Kahkewistahaw Administration Law, 2018*, as amended or replaced from time to time;
- (m) **“Kahkewistahaw First Nation”** or **“First Nation”** means the Kahkewistahaw First Nation;
- (n) **“Kahkewistahaw Land”** means any portion of the land referred to in Article 6 of this Land Code, including all the rights and resources that belong to the land;
- (o) **“Kahkewistahaw Land Register”** means the register to be established and maintained by the First Nation pursuant to the terms of this Land Code;

- (p) **“Lands Advisory Board”** means the Lands Advisory Board established pursuant to section 38 of the *Framework Agreement*;
- (q) **“Lands Committee”** means the committee to be established by the Council pursuant to Article 20 of this Land Code to advise the Council on land matters;
- (r) **“Land Law”** means a land law passed pursuant to this Land Code;
- (s) **“Land Manager”** means the person hired by the First Nation to assist with land matters under this Code;
- (t) **“Land Resolution”** means a resolution of Council made pursuant to this Land Code to approve the granting of an Interest or Licence or to evidence the amendment of section 6.1;
- (u) **“Licence”** means any right of use or occupation of Kahkewistahaw Lands, other than an Interest in that land;
- (v) **“Member”** means a person whose name appears or is entitled to appear on the Kahkewistahaw Membership List;
- (w) **“Membership List”** means the list of persons maintained by the First Nation as its “band list” in accordance with section 10 of the *Indian Act*, under the terms of the *Kahkewistahaw First Nation Membership Code*, as amended or replaced from time to time;
- (x) **“Outfitting”** means to provide direction, assistance or expertise to another person in relation to angling or hunting for or in expectation of any fee, financial gain or reward;
- (y) **“Prohibited Drug”** means any substance or drug prohibited pursuant to the *Controlled Drugs and Substances Act*, R.S. 1996, c. 19, and the *Food and Drugs Act*, R.S. 1985, c. F-27, as amended or replaced, and listed on a schedule to such acts or any substance which can be demonstrated to affect the mental or physical ability to perform one’s duties;
- (z) **“Ratification Vote”** means a vote of the Eligible Voters held in accordance with the rules and procedures for a referendum set out in the Community Meeting Rules and Procedures, to obtain community approval in accordance with section 32; and
- (aa) **“Individual Agreement”** means the Individual Agreement made, pursuant to subsection 6(3) of the *First Nations Land Management Act*, between the Kahkewistahaw First Nation and Her Majesty the Queen in right of Canada;

**Paramountcy**

3.2 If there is an inconsistency between this Land Code and any other Land Law, Land Resolution or bylaw of the Kahkewistahaw First Nation, this Land Code prevails to the extent of the inconsistency.

**Non-abrogation**

3.3 This Land Code does not abrogate or derogate from any Aboriginal, Treaty or other rights or freedoms that pertain to the Kahkewistahaw First Nation or its Members.

**Special Relationship**

3.4 This Land Code does not abrogate the special relationship between Her Majesty and the Kahkewistahaw First Nation and its Members.

**Number of days**

3.5 Where there is a reference to a number of days between two events, it is deemed to be a reference to calendar days and in calculating the number of days the day on which the first event happens is excluded and the day on which the last event happens is included.

**Number**

3.6 Words in the singular include the plural and words in the plural include the singular.

**4. Authority**

**Authority**

4.1 The power of the Kahkewistahaw First Nation to govern and administer its land flows from the Creator to the Members of the Kahkewistahaw First Nation, and from the Members to the First Nation's Council according to its custom and law.

**5. Purpose**

**Purpose**

5.1 The purpose of this Land Code is to set out the principles, rules and structures that apply to Kahkewistahaw Lands and resources and by which the Kahkewistahaw First Nation will exercise authority in accordance with the *Framework Agreement* and the *First Nations Land Management Act*.

**Ratification**

5.2 The adhesion by the First Nation to the *Framework Agreement* is ratified and confirmed when this Land Code comes into force by a Ratification Vote.



## 6. Description of Kahkewistahaw Land

### Kahkewistahaw Land

- 6.1 The Kahkewistahaw First Nation land that is subject to this Land Code is that land included in the following Kahkewistahaw reserves:
- (a) Kahkewistahaw Reserve No. 72A-1 (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38756)
  - (b) Kahkewistahaw Reserve No. 72B (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38759);
  - (c) Kahkewistahaw Reserve No. 72C (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38757);
  - (d) Kahkewistahaw Reserve No. 72D (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38758);
  - (e) Kahkewistahaw Reserve No. 72E (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38761);
  - (f) Kahkewistahaw Reserve No. 72F (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38763);
  - (g) Kahkewistahaw Reserve No. 72G (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38760);
  - (h) Kahkewistahaw Reserve No. 72H (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB38762); and
  - (i) Kahkewistahaw Reserves No. 72I, 72J, 72K and 72L (as described in the Legal Description Report, registered in the Canada Lands Surveys Records as instrument no. FB4020453).

## 7. Lands and Interests Affected

### Nature of lands and Interests

- 7.1 A reference to “land” or to “Kahkewistahaw Land” in this Land Code means all the rights and resources that belong to the land, and includes:
- (a) the water, beds underlying water, riparian rights, aboriginal or Treaty rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada or the First Nation; and



- (b) all the Interest and Licences granted by Her Majesty the Queen in right of Canada listed in the Individual Agreement.

7.2 For greater certainty and notwithstanding anything to the contrary in this Land Code or any Land Law, the *Indian Oil and Gas Act* continues to apply to Kahkewistahaw Land to the extent set out in section 3 of the *Framework Agreement* and paragraph 39 of the *First Nations Land Management Act*.

## 8. Law-Making Powers

### Council may make laws

8.1 The Council may, in accordance with this Land Code, make laws respecting the development, conservation, protection, management, use and possession of Kahkewistahaw Land, and the granting of Interests and Licences in relation to these lands. This power includes the power to make laws in relation to any matter necessary or ancillary to the making of laws in relation to Kahkewistahaw Land.

## 9. Law-Making Procedure

### Introduction of land laws

9.1 A proposed Land Law may be introduced by a member of the Council, the Lands Committee or by any Member at a duly convened meeting of the Council.

### Procedure

9.2 The following procedures must be followed for the introduction of a Land Law:

- (a) A proposed Land Law must be in writing;
- (b) A written request to be placed on the agenda, along with a written copy of the proposed Land Law must be provided to the Council fourteen (14) days prior to the duly convened meeting at which it is to be introduced; and
- (c) The proposed Land Law may then be introduced at the duly convened meeting, or at any subsequent meeting deemed appropriate by the Council.

### Explanation

9.3 The Council may require the member of Council, the Lands Committee or the Member introducing the proposed Land Law to explain how the law would benefit the community.

**Lands Committee Review**

9.4 Following the introduction of the proposed Land Law, if not done already, the proposed Land Law shall be provided to the Lands Committee for review and comment. The Lands Committee shall provide any comments to the Council on the proposed Land Law.

**Tabling and posting of proposed law**

- 9.5 A proposed Land Law shall not be approved by the Council unless it is;
- (a) introduced at a meeting of the Council held at least thirty (30) days before the Land Law is to be considered for the approval of the Council;
  - (b) posted in the administrative offices of the First Nation in a location to which the public has access and in any other public places on Kahkewistahaw Land that the Council deems appropriate at least twenty one (21) days before the Land Law is to be considered for the approval of the Council;
  - (c) published in the community newsletter or distributed to Eligible Voters at least ten (10) working days before it is to be considered for the approval of the Council;
  - (d) reviewed by the Lands Committee; and
  - (e) in compliance with this Land Code.

**Members Comments**

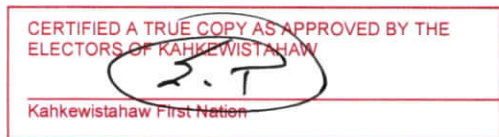
9.6 Members shall be entitled to provide written comments to the Council on the proposed Land Law prior to the Land Law being considered for the approval of the Council. The Council shall consider such comments prior to the Land Law being approved by the Council.

**Public health or Safety**

9.7 The Council may enact a Land Law without the procedures required under this Article 9, if the Council is of the opinion that the law is needed urgently in the interests of public health and safety. As soon as reasonably possible after the enactment of such a Land Law the Council must, if not already done, have the Land Law reviewed by the Lands Committee, post and publish the Land Law as required by subsections 9.5(b) and (c) and consider any comments received from a Member. If deemed necessary the Council may amend the Land Law.

**Council approval of land law**

9.8 Subject to section 10.1, a Land Law is passed if, at a duly convened meeting, where a quorum of a Council is present, a quorum of the Council vote in favour of the Land Law



or the resolution is in writing and is signed by all members of the Council. In the case of a conflict, preventing the Council from voting on or otherwise passing a proposed Land Law under the rules set out in Article 23, the Land Law is approved by the Members in accordance with section 23.4.

#### **Certification of land laws**

9.9 The original copy of any Land Law concerning Kahkewistahaw Land shall be signed by at least a quorum of the Council.

### **10. Limits on Law-Making Power**

#### **Community approval**

10.1 The Council shall not enact the following unless community approval by a Community Meeting or by a Ratification Vote, as provided for in this Land Code, is received:

- (a) a land use plan;
- (b) the law on community expropriation referred to in section 24.3; and
- (c) any other law that specifies that it requires community approval by a Community Meeting or by a Ratification Vote under this Land Code or any other Land Law.

### **11. Publication of Land Laws**

#### **Posting land laws**

11.1 Within seven (7) days of a Land Law being passed, the Council shall post a notice that a law has been passed in the administrative offices of the Kahkewistahaw First Nation in an area to which the public has access, and for a period of at least thirty (30) days shall have a copy of the Land Law available for review upon request.

#### **Registry of laws**

11.2 The Council shall maintain, at the administrative office of the First Nation, a register of all Land Laws passed, as well as an original copy of all Land Laws passed, which registry shall include the date a Land Law was passed, became enforceable, amended, repealed, replaced or no longer in force.

#### **Public Access**

11.3 A Member, a holder of an Interest or Licence or any other person with the consent of the Council may have reasonable access to the register of Laws during the normal business hours of the First Nation in the administrative offices of the First Nation.

**Copies to made available**

- 11.4 A Member, a holder of an Interest or Licence or any other person with the consent of the Council may obtain a copy of a Land Law on payment of a reasonable fee set by the Council from time to time.

**12. Commencement of Laws**

**Laws In force**

- 12.1 A Land Law comes into force on the date it is passed or such later date as specified by or under the Land Law.

**13. Land Management Powers**

**Authority to make dispositions**

- 13.1 Subject to Article 14, the First Nation, acting through the Council, may grant Interests and Licences in Kahkewistahaw Land, including, but not limited to leases, permits, easements and rights-of-ways. This includes the right to grant Interests in or Licences to take resources including, but not limited to, cutting timber or removing minerals, oil, gases, stone, sand, gravel, clay, soil or other substances.

**14. Limits on Interests and Licences**

**Dispositions in writing**

- 14.1 An Interest in, or Licence to use, Kahkewistahaw Land may only be created, granted, disposed of, assigned or transferred by a written Land Resolution, approved by the Council, in accordance with this Land Code.

**Approval of Land Resolution by Council**

- 14.2 A Land Resolution is passed if, at a duly convened meeting, where a quorum of the Council is present, a quorum of the Council vote in favour of the Land Resolution or the Land Resolution is in writing and is signed by all members of the Council. In the case of a conflict, preventing the Council from voting on or otherwise passing a proposed Land Resolution under the rules set out in Article 23, the Land Resolution is approved by the Members in accordance with section 23.4.

**Existing dispositions**

- 14.3 Dispositions of Kahkewistahaw Land in existence, whether allocated pursuant to the *Indian Act* or otherwise, shall continue in existence, in accordance with and under the same terms and conditions as the document evidencing such disposition.

**Grant to any person**

14.4 Subject to sections 14.5 and 14.6 or any Land Law, the Council can allocate or grant an Interest in or a Licence to use Kahkewistahaw Land to any person.

**Allocation of lots**

14.5 Subject to subsection 14.6(b) or any Land Law, the Council can allocate or grant an Interest in or a Licence to use Kahkewistahaw Land for residential purposes to a Member and/or their spouse, but only to the extent required for the purpose.

**Community approval of disposition**

14.6 Subject to section 14.7, community approval by a Community Meeting must be obtained for the following:

- (a) any grant or disposition of an Interest in or Licence to use Kahkewistahaw Land, other than for residential purposes, exceeding a term of 49 years;
- (b) any grant or disposition of an Interest in or Licence to use Kahkewistahaw Land for residential purposes exceeding a term of 99 years;
- (c) any renewal of an Interest in or Licence to use Kahkewistahaw Land, other than for residential purposes, that extends the original term beyond 49 years; or
- (d) any grant or disposition of any Interest or Licence relating to natural resources on Kahkewistahaw Lands exceeding a term of 6 years.

**Utility Interests**

14.7 Notwithstanding anything to the contrary in this Land Code, the Council can grant an Interest in or Licence to use Kahkewistahaw Lands for utility and road purposes, including road right of ways for any period of time deemed appropriate by the Council, without the need for Member approval.

**Improper transactions void**

14.8 An Interest, Licence, deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which the First Nation, a Member or any other person purports to grant, dispose of, transfer or assign an Interest in or Licence to use Kahkewistahaw Land after the date this Land Code comes into force is void if it is not authorized in accordance with this Land Code.

**Resources not included**

14.9 The grant of an Interest in or Licence to use Kahkewistahaw Land, unless the instrument evidencing such Interest or Licence indicates otherwise, does not entitle the holder of the

Interest or Licence or anyone else claiming an interest or right granted to them by such holder, to benefit from the resources located in, under or upon the affected Kahkewistahaw Land.

## **15. Transfer and Assignment of Dispositions**

### **Approval of transfer**

15.1 A transfer or assignment of an Interest in or Licence to use Kahkewistahaw Land is void and unenforceable unless firstly approved in writing by the Council.

### **Restrictions on assignment or further grant**

15.2 Subject to sections 15.3 and 15.4, the grant of any Interest in or Licence to use Kahkewistahaw Land, shall be deemed to include a provision that the grant shall not be transferred or assigned or any other interest subsequently granted under the Interest or Licence without the written consent of the Council.

15.3 Subject to any Land Law, a Member, who has been allocated or granted an Interest in or Licence to use Kahkewistahaw Land for residential purposes may transfer or assign the Interest or Licence, or any portion therein, to their spouse, whether or not the spouse is a Member, or to another Member.

15.4 Subject to any Land Law and regardless of any law or regulation to the contrary, on the death of a holder of an Interest in or Licence to use Kahkewistahaw Land, other than for residential purposes, the following shall apply:

- (a) If the Interest or Licence is held in common with another interest holder(s) then the Interest or Licence shall be deemed to be held by the other interest holder(s). In this event the deceased interest holder's estate shall continue to be responsible and liable for the fulfillment of the terms and conditions of the Interest or Licence;
- (b) If the Interest or Licence is held solely by the deceased interest holder, then the Interest or Licence shall terminate, unless the transfer or assignment of the Interest or Licence, in accordance with the wishes of the deceased interest holder, is consented to by the Council;
- (c) In the event the executor or administrator of the deceased interest holder's estate wishes to have the Interest or Licence of the deceased interest holder transferred or assigned in accordance with the wishes of the deceased interest holder, then the executor or administrator shall make written request, within 30 days of the death of the deceased interest holder to the Council. Upon receipt of the written request, the Council will consider the written request and advise the executor or administrator if the Council consents to the transfer or assignment of the Interest or Licence and if so on what, if any, terms and conditions.

### **Registration**

15.5 For greater certainty, registration of the written consent referred to in this Article is still required under Article 17.

### **16. Limits on Mortgages and Seizures**

#### **Protections**

16.1 In accordance with the *Framework Agreement*, section 29, section 87 and subsections 89(1) and (2) of the *Indian Act* continue to apply to Kahkewistahaw Land.

#### **Limits on mortgages**

16.2 Subject to sections 16.3 and 16.4, a leasehold interest in Kahkewistahaw Land is subject to charge, mortgage, attachment, levy, seizure, distress and execution, for a term not exceeding the term of the Interest or Licence.

#### **Exception**

16.3 The term of any charge or mortgage shall not exceed 30 years, unless it receives the written consent of the Council.

#### **Enforcement of charge or mortgage**

16.4 A charge or mortgage of a leasehold interest is not subject to seizure, attachment, distress, foreclosure or any other form of execution, unless:

- (a) the charge or mortgage was consented to by the Council;
- (b) the charge or mortgage was registered in the Kahkewistahaw Land Register;
- (c) a reasonable opportunity for at least a period of 90 days was given to the mortgagor, holder of the Interest or Licence and to the First Nation to redeem the charge or mortgage;
- (d) any conditions required by the Council as part of their consent to the charge or mortgage have been complied with by the holder of the charge or mortgage; and
- (e) the holder of the charge or mortgage has complied with any Land Laws passed by the First Nation.

#### **Power of redemption**

16.5 A charge or mortgage of a leasehold interest shall be deemed to include a provision that the First Nation shall have the right to redeem the charge or mortgage in the event of default under the charge or mortgage.

**First Nation becomes Chargor or mortgagor**

- 16.6 If the First Nation exercises its power of redemption, the Kahkewistahaw First Nation shall become the holder of the Interest or Licence and shall take the position of the chargor or mortgagor for the purposes after the date of the redemption.

**17. Registration of Dispositions**

**Duty to maintain duplicate register**

- 17.1 The Council shall establish and maintain a land register, to be known as the Kahkewistahaw Land Register, in form and content the same as the First Nations Land Register.

**Enforcement with registration**

- 17.2 An Interest or Licence in Kahkewistahaw Land created or granted after this Land Code comes into effect or the transfer or assignment of such Interest or Licence is not enforceable against a third party, the Kahkewistahaw First Nation or a Member, unless it is registered in the Kahkewistahaw Land Register.
- 17.3 A charge or mortgage of a leasehold interest in Kahkewistahaw Land or in a building located on Kahkewistahaw Land under an Interest or Licence granted after this Land Code comes into effect, is not enforceable unless it is registered in the Kahkewistahaw Land Register.

**Registration of consent or approval**

- 17.4 No instrument evidencing an Interest or Licence or a transfer and assignment of an Interest or Licence, that requires consent of the Council, or community approval by a Community Meeting or by a Ratification Vote, may be registered unless a document evidencing such consent or approval, certified by a member of the Council of the First Nation or the chairperson of the Lands Committee is attached to the instrument.

**Rules**

- 17.5 The Council may make rules respecting the administration of the Kahkewistahaw Land Register, the registration of Interests and Licences in it and the recording of any other matter, including but not limited to rules respecting:
- (a) the effects of registering Interests and Licences, including priorities;
  - (b) the payment of fees for the registration of Interests and Licences and for any other service in relation to the register; and



- (c) the appointment, remuneration, powers, functions and duties of officers and employees who administer the register.

**Duty to deposit**

17.6 The Council shall ensure that an original copy of the following instruments are deposited in the First Nations Land Register:

- (a) any grant of an Interest or Licence in Kahkewistahaw Land;
- (b) any transfer or assignment of an Interest or Licence in Kahkewistahaw Land;
- (c) any expropriation of an Interest or Licence in Kahkewistahaw Land by the Kahkewistahaw First Nation
- (d) every land use plan, subdivision plan or resource use plan; and
- (e) this Land Code and any amendment to this Land Code.

**18. Member Lots and Resources**

**Allocation by Council**

18.1 Subject to section 18.2 and any Land Law, residential lots are to be allocated by the Council.

**Allocation of lots**

18.2 The allocation to Members and/or their spouse of available residential lots and the procedures for the allocation shall be developed and recommended by the Lands Committee, or if in existence a housing committee or authority established by the First Nation, and which have been approved by the Council.

**Rights to resources**

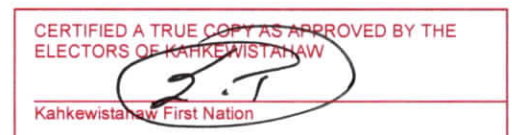
18.3 The allocation of an Interest in a residential lot does not entitle the Member or their spouse to benefit from the resources located in, under or upon the land.

**19. Residency and Access Rights**

**Right of residence**

19.1 Subject to sections 19.3 and 19.4, the following persons have a right to reside on Kahkewistahaw Lands:

- (a) Members and their spouses, children and their invitees; and



- (b) a holder of an Interest or Licence, in accordance with the provisions of the instrument granting the Interest or Licence.

**Right of access**

19.2 Subject to sections 19.3, 19.4, 19.5 and 19.6, the following persons, provided they comply with all applicable laws and they do not trespass on occupied land or interfere with any Interest or Licence granted in Kahkewistahaw Land, have a right to access Kahkewistahaw Land:

- (a) a holder of an Interest or Licence and those granted a right of access under the Interest or Licence;
- (b) Members and their spouses, children and their invitees;
- (c) a person accessing Kahkewistahaw Land for social, recreational or business purposes; or
- (d) a person authorized in writing by the Council, or under a Kahkewistahaw First Nation law.

**Denial of access**

19.3 Subject to section 19.4, the Council may, for valid and fair reasons, deny or restrict the right to reside on or to access Kahkewistahaw Land to any person if, at a duly convened meeting a quorum of the Council vote in favour of a resolution denying or restricting such right of the person.

**Denial to Members**

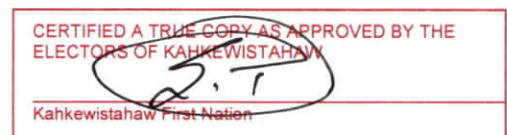
19.4 The Council may, upon receiving a recommendation from the Lands Committee, not deny or restrict the right to reside on or to access Kahkewistahaw Land to a Member unless such denial or restriction receives community approval in accordance with Article 29 of this Land Code.

**Hunting on Kahkewistahaw Lands**

19.5 No person, other than a Member, shall hunt on Kahkewistahaw Lands without the written consent of the Council.

**Outfitting**

19.6 No person shall provide Outfitting services on Kahkewistahaw Lands without the written consent of the Council.



### **Trespass**

19.7 Any person, who resides on, enters or remains on Kahkewistahaw Land other than in accordance with a residence or access right under this Land Code, is guilty of an offence.

### **Civil remedies**

19.8 All civil remedies for trespass are preserved.

## **20. Lands Committee**

### **Committee established**

20.1 The Council shall, by resolution, establish the Kahkewistahaw Lands Committee.

### **Composition**

20.2 The Lands Committee shall be composed of 6 members as follows:

- (a) four (4) Members of the First Nation;
- (b) one (1) Elder of the First Nation; and
- (c) the Councillor of the First Nation, who is responsible for land matters, as determined by the Council from time to time.

### **Appointments by Council**

20.3 Members of the Lands Committee shall be appointed by the Council, in accordance with this Article.

### **Conflict of interest**

20.4 Because of the unusual conflicts of interest possible in the community, not more than two Members from the same Immediate Family may be members of the Lands Committee at the same time.

20.5 Members of the Lands Committee, including for greater certainty the Councillor on the committee, cannot be from the same Immediate Family as the Land Manager.

### **Eligibility to be a Committee Member**

20.6 Except in the case of the Councillor appointed to the Committee, each Member and Elder appointed to the Lands Committee must:

- (a) be a Member;

- (b) except in the case of the Elder, must have attained at least the age of eighteen (18) years as of the date of his or her appointment;
- (c) not be the Chief or member of the Council as of the date of his or her appointment;
- (d) not have been declared to be mentally incompetent or incapable of managing his or her own affairs by a court of competent jurisdiction in Canada or elsewhere;
- (e) not have been convicted, but not pardoned, of an indictable offence or of an offence under the *Controlled Drugs and Substances Act*, R.S. 1996, c. 19, or the *Food and Drugs Act*, R.S. 1985, c. F-27, as amended or replaced, in the past 10 years; and
- (f) be free of any Prohibited Drug.

**Term of office**

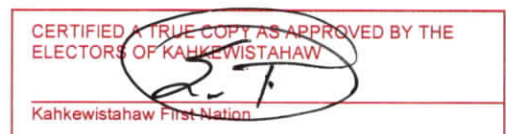
- 20.7 Subject to section 20.8, the length of the term of office for a member of the Lands Committee, except in the case of the Councillor, is 3 years from the date of appointment.
- 20.8 In determining the term of appointment, the Council shall endeavor to ensure that the terms of no more than two members of the committee expire in any year.

**Selection procedures**

- 20.9 The Council may establish procedures for the selection of members to the Lands Committee, provided such procedures are not inconsistent or in conflict with this Land Code.

**Vacancy on committee**

- 20.10 The office of a member of the Lands Committee becomes vacant if the person, while holding office,
- (a) dies;
  - (b) resigns;
  - (c) are elected to the position of Chief or Councillor for the First Nation or any other band;
  - (d) violates this Code or any code of ethics developed by the Council for committees generally;
  - (e) materially fails to fulfill his or her obligations and duties under and in accordance with this Code or conducts themselves in an unethical or dishonest manner as



determined by the unanimous decision of the Council and of the other Committee members;

- (f) fails to disclose a conflict of interest in accordance with section 23.2;
- (g) is declared by a court of competent jurisdiction to be mentally incompetent or incapable of managing his or her own affairs;
- (h) is convicted of an indictable offence or of an offence under the *Controlled Drugs and Substances Act*, R.S. 1996, c. 19, or the *Food and Drugs Act*, R.S. 1985, c. F-27, as amended or replaced;
- (i) fails to attend and/or to submit to a drug test and/or fails to provide a report, the costs of which shall be the First Nation's responsibility, certified by a member in good standing of the College of Physicians & Surgeons of Saskatchewan or of the province where the individual resides, or a recognized drug testing facility, upon the request of Council or such report determines that he or she is not free of any Prohibited Drug;
- (j) ceases to be a Member; or
- (k) is absent for 3 consecutive meetings of the Lands Committee without being authorized to do so by the Lands Committee.

#### **Vacancy in term**

20.11 Where the office of a selected member of the Lands Committee becomes vacant for more than ninety (90) days before the date when another selection would ordinarily be held, a special selection may be made in accordance with this Land Code, as the case may be, to fill the vacancy.

#### **Balance of term of office**

20.12 A member of the Lands Committee selected to fill a vacancy remains in office for the balance of the term of the member of the Lands Committee they are replacing.

### **21. Duties of the Lands Committee**

#### **Terms and Duties**

21.1 The Council may, by resolution, establish the terms and duties of the Lands Committee members and the procedures to be followed by the Lands Committee, provided they are not inconsistent or in conflict with this Land Code.

#### **Procedures**

21.2 The Lands Committee may make its own rules of procedure not inconsistent or in conflict with this Land Code or with those established by the Council.

**Role of the Lands Committee**

- 21.3 The Lands Committee shall make recommendations to the Council on all matters related to Kahkewistahaw Land, including the passing of Land Laws and the granting of Interests or Licences.
- 21.4 Notwithstanding anything to the contrary in this Land Code, the Council shall not make any decision relating to Kahkewistahaw Land without first having the matter considered by the Lands Committee and receiving a recommendation from the Lands Committee.

**Delegation of powers**

- 21.5 The Council may delegate any of its land management powers under this Land Code to the Lands Committee. Such delegation shall be in writing, must be approved by a quorum of the Council at a duly convened meeting or signed by all members of the Council and must be posted in the administrative offices of the First Nation to which the public has access.

**Development of land policies**

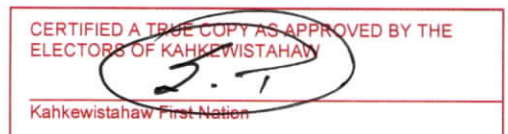
- 21.6 Within a reasonable time after this Land Code comes into force, the Lands Committee shall, in consultation with the community, develop policies that address the following matters:
  - (a) environmental protection and assessment in relation to Kahkewistahaw Land;
  - (b) any outstanding issues on the resolution of disputes in relation to Kahkewistahaw Land;
  - (c) land use planning; and
  - (d) any other matter requested by the Council.

**Rules on Breakdown of Marriage**

- 21.7 Within 12 months of this Land Code coming into force, general rules and procedures, in cases of the breakdown of a marriage, respecting the use, occupation and possession of Kahkewistahaw Land and the division of Interests in such lands, shall either be incorporated into this Land Code or enacted in a Land Law. The Lands Committee shall, as soon as is reasonable possible after this Land Code comes into force, develop in consultation with the community, such rules and procedures.

**Expropriation Laws**

- 21.8 Within a reasonable time of being requested to do so by the Council, the Lands Committee shall, in consultation with the community, develop procedures governing the



expropriation of Kahkewistahaw Land, the entitlement to, determination of and payment of compensation and the resolution of disputes concerning the right to expropriate and to address compensation issues.

#### **Consultation process**

21.9 In fulfilling its obligation to consult with the community as required in sections 21.6, 21.7 and 21.8 the Lands Committee shall make efforts to ensure the Members are informed of such policies and rules and procedures by mailing information to the Members, by holding meetings with the Members or by undertaking any other form of consultation as the Council may consider appropriate in the circumstances.

#### **Implementation of policies**

21.10 The policies and the rules and procedures developed by the Lands Committee pursuant to sections 21.6, 21.7 and 21.8 shall be presented to the Council for consideration and implementation as Land Laws, Land Resolutions or as amendments to this Land Code, whichever is deemed by the Council to be most appropriate.

## **22. Meetings of the Lands Committee**

#### **Chairperson**

22.1 The Councillor appointed to oversee the Lands Committee shall act as chairperson for the committee. The chairperson shall not have the same rights to make, second and vote on resolutions as other members of the Lands Committee. In the event of a tie in votes the chairperson shall have the deciding vote.

#### **Functions of the Chairperson**

22.2 The functions of the chairperson are as follows:

- (a) to chair meetings of the Lands Committee; and
- (b) to report, with the other members of the Lands Committee, to the Council and the Members on the activities of the Lands Committee.

#### **Alternate Chairperson**

22.3 If the chairperson is unable to perform the functions of office, either temporarily or on a long term basis, the Lands Committee shall appoint one of the other Lands Committee members to act as or be the chairperson for the relevant period.

#### **Calling of Meetings**

22.4 Meetings of the Lands Committee shall be called by the Councillor responsible for the committee or by a quorum of the Council.

- 22.5 Unless agreed otherwise by all of the members of the Lands Committee, the time and place of each meeting of the committee shall be given to each member of the committee not less than five (5) days before the time when the meeting is to be held. A notice of a meeting of the committee should specify the purpose of or the business to be transacted at the meeting.
- 22.6 A member of the Lands Committee may in any manner waive notice of a meeting of the committee, however, unless all of the members of the Committee waive notice of a meeting of the committee, section 22.5 must be followed.
- 22.7 Notwithstanding anything to the contrary in this Land Code, a member of the Lands Committee may, in any manner, consent to a meeting of the committee being held.

**Quarterly meetings**

- 22.8 Unless directed otherwise by the Council, the Lands Committee shall meet at least once every three months, provided that the committee shall meet at any time requested by the Council.

**Rules for meetings**

- 22.9 Meetings of the Lands Committee shall be conducted in accordance with the following procedure:
- (a) whenever possible, all meetings shall be held on Kahkewistahaw Lands provided that a meeting may be conducted by telephone or other facility which permits each member of the Lands Committee in attendance to communicate with all other members of the committee at the meeting;
  - (b) the chairperson shall chair meetings, provided that, in the absence of the chairperson, another member of the committee appointed for that purpose by those in attendance shall chair a meeting;
  - (c) the quorum for meetings of the Lands Committee shall be a majority of the members on the committee;
  - (d) all decisions and actions of the Lands Committee shall be in accordance with a majority vote, , provided that a resolution in writing, signed by all of the members of the committee is as valid as if it had been passed at a meeting of the committee; and
  - (e) written minutes of the proceedings at each meeting will be kept and the minutes of the preceding meeting approved or revised at the commencement of each meeting.



**Access to minutes**

22.10 A copy of the minutes of each meeting of the Lands Committee, exclusive of any confidential or sensitive information, as determined by the Committee members, shall be provided to any Member who requests a copy, without charge.

**23. Conflicts of Interest**

**Affected Persons**

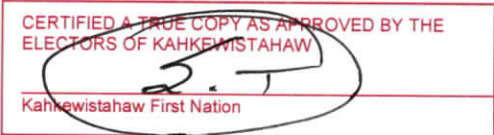
- 23.1 This Article applies to the following people (referred to in this section as an “Affected Person”)
- (a) each member of the Council who is dealing with any matter before Council that is related to Kahkewistahaw Land;
  - (b) each member of the Lands Committee;
  - (c) each member of a dispute resolution body established under the terms of this Land Code;
  - (d) each person who is an employee of the Kahkewistahaw First Nation dealing with any matter that is related to Kahkewistahaw Land; and
  - (e) each person who is a member of a board, committee or other body duly established by the Kahkewistahaw First Nation dealing with any matter that is related to Kahkewistahaw Land.

**Compliance with Financial Administration Law**

23.2 An Affected Person must avoid conflict of interests and comply with any applicable requirements of the Kahkewistahaw Financial Administration Law in exercising a power, duty or responsibility relating to any matter under this Land Code, including complying with the applicable requirements of the Schedule: Avoiding and Mitigating Conflict of Interests, including required disclosure of potential conflict of interests, attached to the Kahkewistahaw Financial Administration Law.

**Meeting of Eligible Voters**

23.3 If a quorum of the Council is not attainable to vote on a proposed Land Law or to determine whether to grant an Interest or Licence due to a conflict of interest, the Council may refer the matter to a Community Meeting for community approval in accordance with Article 29 of this Land Code.



#### **Inability to act**

- 23.4 If a quorum of the Lands Committee or of any other board, committee or other body is not attainable to vote on a matter or if an employee is unable to make a decision due to conflict of interests, the matter shall be referred to the Council for their consideration.

#### **Other laws**

- 23.5 For greater certainty, the Council may enact laws to further implement this Article, provided such laws are not inconsistent or in conflict with this Land Code or the Kahkewistahaw Financial Administration Law.

### **24. Taking Land for Community Purposes**

#### **Interests that may be expropriated**

- 24.1 An Interest or Licence in Kahkewistahaw Land, or in any right, interest or building or other structure on those lands, may be expropriated by the Kahkewistahaw First Nation in accordance with the *Framework Agreement* and any Land Law passed for the purpose of establishing the rights and procedures for such expropriations.

#### **Community purposes**

- 24.2 A community expropriation may only be made for necessary community purposes or works of the Kahkewistahaw First Nation, including but not in any way limited to a fire hall, sewage or water treatment facility, community centre, public works, roads, schools, day-care facility, hospitals, health-care facility, and retirement home.

#### **Expropriation laws**

- 24.3 Before proceeding to make any community expropriation in accordance with this Land Code, the Council shall make fair and reasonable laws respecting the rights and procedures for community expropriations, including laws respecting:
- (a) procedures governing expropriation, including the taking of possession, compulsory taking of possession and transfer of the right or interest, notice of expropriation and service of notice of expropriation;
  - (b) entitlement to compensation, determination of the amount of compensation and the method of payment of compensation; and
  - (c) a mechanism for the resolution of disputes concerning the right of the Kahkewistahaw First Nation to expropriate an Interest or Licence, disputes concerning the right of a holder of an expropriated Interest or Licence to compensation and disputes concerning the amount of compensation to be paid for the expropriated Interest or Licence.

**Interests that may not be expropriated**

24.4 An Interest or Licence held by Her Majesty the Queen in right of Canada is not subject to expropriation by the Kahkewistahaw First Nation.

**Acquisition by mutual agreement**

24.5 The right of the Kahkewistahaw First Nation to expropriate can only be exercised after a good faith effort to acquire, by mutual agreement, the Interests or Licence in Kahkewistahaw Land.

**Compensation for interests**

24.6 The First Nation shall, in accordance with its laws and the *Framework Agreement*, do the following:

- (a) serve reasonable notice of the expropriation on each affected holder of rights or interests in the Interest or Licence to be expropriated; and
- (b) pay fair and reasonable compensation to the holders of the rights or interests in the expropriated land based on the heads of compensation set out in the *Expropriation Act (Canada)*.

**25. Voluntary Land Exchanges and Protections**

**Land exchange**

25.1 Kahkewistahaw First Nation may agree with another party to exchange a parcel of Kahkewistahaw Land for a parcel of land from that other party in accordance with this Land Code, the *Framework Agreement* and the *First Nations Land Management Act*.

**Negotiators**

25.2 The Council, by resolution, will appoint the person or persons who will have the authority to negotiate a land exchange agreement on behalf of the First Nation.

**Community approval**

25.3 Any exchanges of Kahkewistahaw Land, which involve Kahkewistahaw Land in an urban municipality or more than 160 acres of Kahkewistahaw Land, must be submitted for community approval by Ratification Vote in accordance with this Land Code before the land exchange agreement becomes valid and binding on the First Nation.

**Land to be received**

25.4 No land exchange may occur unless the land to be received in the exchange meets the following conditions:

- (a) it must be equal to or greater than the area of Kahkewistahaw Land to be exchanged and it and any other compensation to be received by the First Nation, must be at least comparable to the appraised value of the Kahkewistahaw Land; and
- (b) it must become a reserve and subject to this Land Code.

**Additional land**

25.5 The Kahkewistahaw First Nation may negotiate to receive one or more other parcels of land as compensation, in addition to the parcel referred to above which is intended to become a reserve. The other parcels may be held by the Kahkewistahaw First Nation or its agent in fee simple or some other manner.

**Federal consent**

- 25.6 Before Kahkewistahaw First Nation concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that Her Majesty the Queen in right of Canada:
- (a) consents to set apart as a reserve the land referred to in section 25.4, as of the date of the land exchange or such later date as the Council may specify by resolution; and
  - (b) consents to the technical aspects of the exchange as set out in the exchange agreement.

**Community notice**

- 25.7 Once negotiations on the land exchange agreement are concluded, the Council shall provide the following information to Eligible Voters at least thirty (30) days before the vote:
- (a) a description of the Kahkewistahaw Land to be exchanged;
  - (b) a description of the land to be received in the exchange;
  - (c) a description of any other compensation to be exchanged;
  - (d) a report of a certified land appraiser setting out that the conditions in section 25.4 have been met;
  - (e) a copy and summary of the exchange agreement; and
  - (f) a copy of the written statement from Canada referred to in section 25.6.

**Process for land exchange**

25.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) the Council must pass a resolution authorizing Canada to transfer title to the Kahkewistahaw Land being exchanged, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nation Lands Registry.

**26. Financial Controls and Accountability**

**Application**

26.1 This Article applies only to financial matters relating to Kahkewistahaw Land.

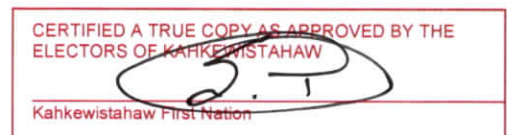
**Establishment of accounts**

26.2 The Council shall maintain one or more financial accounts at a financial institution, that is a member institution to which the Canada Deposit Insurance Corporation has a duty to insure deposits pursuant to the *Canada Deposit Insurance Corporation Act*, R.S.C. 1985, c. C-3, as amended, and shall deposit in those account(s) the following amounts:

- (a) payments received from Canada for the management and administration of Kahkewistahaw Land pursuant to the Individual Agreement or otherwise;
- (b) moneys received by the Kahkewistahaw First Nation from the grant or disposition of any Interests or Licences in Kahkewistahaw Land;
- (c) all fees, fines, charges and levies collected under this Land Code, a Land Law or a Land Resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of any Interests and Licences in Kahkewistahaw Land pursuant to the Individual Agreement; and
- (e) any other land revenue received by the First Nation.

**Signing officers**

26.3 The Council shall authorize at least three persons, at least one of whom shall be a member of the Council, to sign cheques and other bills of exchange or transfers drawn on the account or accounts to be maintained by the Council under section 26.2.



**Two signatures**

26.4 To be valid, a cheque or other bill of exchange or transfer drawn on any account maintained by the Council under section 26.2 must be signed by two signing officers, provided at least one of the signing officers is a member of the Council.

**Fiscal year**

26.5 The fiscal year of the First Nation begins on April 1 of each year and ends on March 31 of the following year.

**Adoption of budget**

26.6 The Council shall, by resolution, prior to the beginning of each fiscal year, adopt a consolidated land management budget for that fiscal year and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

**Procedure**

26.7 The Council shall ensure that the procedures set out in the Kahkewistahaw Financial Administration Law for preparation of the consolidated land management budget are followed, including the following of any policies or procedures or directions respecting the means by which members of the First Nation are to be informed about or involved in consideration of annual budgets.

**If no budget**

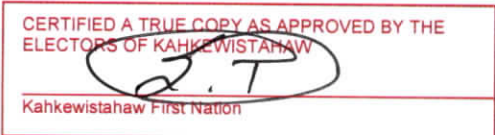
26.8 If the Council fails to adopt a consolidated land management budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.

**Budget rules**

26.9 The Council may make rules respecting the preparation and implementation of land management budgets, provided such rules are not inconsistent or in conflict with this Land Code or the Kahkewistahaw Financial Administration Law.

**Expenditures**

26.10 The Council may not expend moneys or commit itself, by contract or otherwise, to expend moneys, unless such expenditure is authorized by or under a Land Law or an approved budget.



**Financial records**

26.11 The First Nation shall keep books of accounts and financial records in accordance with the provisions of the Kahkewistahaw Financial Administration Law.

**Access to records**

26.12 A member of the Council, a Member or any person authorized by the Council may during the normal business hours of the First Nation, inspect the books of account and financial records of the Kahkewistahaw First Nation.

**Offences**

26.13 A person is guilty of an offence if the person

- (a) impedes or obstructs anyone from exercising their right to inspect the books or account or financial records of the Kahkewistahaw First Nation; or
- (b) has control of the books of accounts or financial records of the Kahkewistahaw First Nation and fails to give all reasonable assistance to any one exercising their right to inspect those books or records.

**Financial statements**

26.14 Within thirty (30) days after the end of each fiscal year, the Kahkewistahaw First Nation shall have prepared and provided to the auditor financial statements in comparative form in accordance with the Kahkewistahaw Financial Administration Law, regarding the land related financial records of the First Nation, containing at a minimum, the following:

- (a) a balance sheet;
- (b) a statement of revenues and expenditures and a comparison of these with amounts stated in the consolidated land management budget and any supplementary budgets; and
- (c) any other information necessary for a fair presentation of the financial position of the Kahkewistahaw First Nation.

**Consolidated accounts**

26.15 The accounting and auditing requirements provided for in this Article 26 and in Article 27 of this Land Code may be done together with, and consolidated with, the other accounts of the Kahkewistahaw First Nation as provided for in the Kahkewistahaw Financial Administration Law.

**Conflicts**

26.16 If there is a conflict between this Land Code and the Kahkewistahaw Financial Administration Law, the Kahkewistahaw Financial Administration Law shall prevail to the extent of the conflict.

**27. Appointment of Auditor**

**Appointment of auditor**

27.1 For each fiscal year, a duly accredited auditor shall be appointed by the Council for the audit of the land related financial records of Kahkewistahaw First Nation. The auditor may be the same auditor appointed by the Council to audit the non-land related financial records of the First Nation.

27.2 The procedures for the appointment of an auditor and the rules for the preparation of audited financial statements set out in the Kahkewistahaw Financial Administration Law shall be followed for the appointment of an auditor and preparation of the audit for land related financial records of the First Nation.

**Holding office**

27.3 The auditor appointed under this Article holds office until re-appointed, or until a new auditor is appointed

**Vacancy in office**

27.4 Where a vacancy occurs during the term of an auditor, the Council shall forthwith appoint a new auditor for the remainder of the former auditor's term and shall fix the auditor's remuneration.

**Remuneration**

27.5 The auditor's remuneration shall be fixed by the Council and shall be paid by the First Nation, if possible out of the payments to be received from Canada under the Individual Agreement or out of the First Nation's general revenues.

**28. Rights of Eligible Voters**

**Rights of eligible voters**

28.1 Each Member who is an Eligible Voter, regardless of where they reside has the right to attend and to vote at a Community Meeting and at a Ratification Vote held under the provisions of this Land Code.



## **29. Procedures for Community Meetings**

### **Community meeting**

29.1 Whenever this Land Code or a Land Law requires a Community Meeting, including the annual community meeting under Article 30 of this Land Code, the procedures set out in the Community Meeting Rules and Procedures for calling and conducting Community Meetings shall be followed.

### **Minimum for quorum**

29.2 The Council may by a Land Law establish a minimum number or percentage of Eligible Voters who are required to be present as a quorum for the purposes of making a decision at a Community Meeting. Unless otherwise set by the Council there shall be no quorum of Members required to be present for the purposes of making decisions.

### **Threshold**

29.3 Subject to any Land Law, all decisions made at a Community Meeting, relating to land matters, shall be by simple majority of those Eligible Voters who are present and vote on the matter.

## **30. Annual Community Meeting**

### **Annual community meeting**

30.1 The Council, on behalf of Kahkewistahaw First Nation, shall call and hold an annual Community Meeting within one hundred and eighty (180) days after the end of each Fiscal Year, such annual Community Meeting maybe undertaken with and at the same time the Council holds the community meeting to present the First Nation's annual report required under the Kahkewistahaw Financial Administration Law.

### **Agenda for annual meeting**

30.2 The agenda for each annual Community Meeting of the Kahkewistahaw First Nation shall include the following:

- (a) annual review of the First Nation's land management;
- (b) if held at the same time as the Council holds the community meeting to present the First Nation's annual report required under the Kahkewistahaw Financial Administration Law, review of the annual report
- (c) presentation of the auditor's report and approval;
- (d) any other matters proposed by Council; and

- (e) any new business.

**Appointment of secretary**

- 30.3 The executive assistant to the Council, or another person designated by the Council, shall take the minutes of the annual community meeting and shall file copies of the minutes at the Kahkewistahaw Land Register.

**31. Community Approvals**

**Approval by ratification vote**

- 31.1 A Ratification Vote shall be held by the Kahkewistahaw First Nation to decide whether to:
  - (a) approve the law on community expropriation referred to in section 24.3;
  - (b) approve a voluntary exchange of Kahkewistahaw Land referred to in section 25.3;
  - (c) approve an amendment to this Land Code as required in Article 36; and
  - (d) approve any matter provided for by a Land Law requiring approval by a Ratification Vote.

**Approval by community meeting**

- 31.2 A Community Meeting shall be held by Kahkewistahaw First Nation to decide whether to:
  - (a) approve a land use plan;
  - (b) approve a grant or disposition of an Interest or Licence in Kahkewistahaw Land as required in section 14.6;
  - (c) approve a grant or disposition of resources on Kahkewistahaw Land as required in section 14.6;
  - (e) approve a charge or mortgage as required in section 16.3;
  - (f) deny the right to reside on or to access Kahkewistahaw Land to a Member as required in section 19.4;
  - (g) enact any Land Law or Land Resolution that the Council is unable to enact as a result of conflict of interests as required under section 23.4; and
  - (h) approve any matter provided for by a Land Law requiring approval by a Community Meeting.

### **Individual Agreement**

- 31.3 For greater certainty, an amendment to, or renewal of, the Individual Agreement with Canada made under clause 6 of the *Framework Agreement* does not require community approval by a Ratification Vote.

## **32. Procedures for Ratification Vote**

### **Ratification Process**

- 32.1 Any Ratification Vote required under this Land Code shall be conducted in accordance with the referendum procedures provided for in the Community Meeting Rules and Procedures.

### **Threshold for Ratification Vote**

- 32.2 A Ratification Vote held under this Land Code will be considered approved if a majority of the Eligible Voters who have voted have voted to approve the matter.

## **33. Local Dispute Resolution System**

### **Disputes subject to appeal**

- 33.1 Matters that may be appealed are as follows:
- (a) whether a Land Law was passed or Land Resolution was passed in accordance with the procedures provided for in this Land Code;
  - (b) any matter regarding the allocation of residential lots to a Member or their spouse;
  - (c) any matter regarding residency and access rights; and
  - (d) any matter provided for by a Land Law or Interest or Licence.

### **Disputes not resolved by Council**

- 33.2 If there is an appealable dispute that cannot be resolved by the Council or the Lands Committee, a Member or any person with an Interest or Licence in Kahkewistahaw Land may, in accordance with this Article, appeal the dispute.

### **Limitation period**

- 33.3 The limitation period for an appeal is thirty (30) days after the day the decision, act or omission being appealed was made.

### **Appeal procedures**

33.4 Subject to any Land Law, an appeal shall be made and determined in accordance with the following procedures:

- (a) a person wishing to commence an appeal shall, within thirty (30) days of the day the decision, act or omission being appealed was made, file a notice of appeal by forwarding to the First Nation, notice of his or her appeal, along with a statutory declaration setting out the matter which the person is appealing and the grounds of the appeal;
- (b) within ten (10) working days of receiving the notice of appeal a dispute resolution body shall be established in accordance with section 33.5;
- (c) the Council shall within five (5) working days of the dispute resolution body being established, forward to the dispute resolution body the following:
  - (i) the notice of appeal and statutory declaration received from the person making the appeal; and
  - (ii) a statutory declaration containing answers to the particulars set out in the person's statutory declaration;
- (d) the dispute resolution body shall within five (5) working days of receiving the information from the Council forward the statutory declaration received from the Council to the person making the appeal and to the Lands Committee;
- (e) the person making the appeal and the Lands Committee may, within five (5) working days of receiving the information from the dispute resolution body, forward to the dispute resolution body a statutory declaration containing answers to the particulars set out in the Council's statutory declaration;
- (f) the dispute resolution body shall, unless agreed otherwise by the Council and the person making the appeal, provide its decision within thirty (30) days of receiving the statutory declaration containing answers to the particulars set out in the Council's statutory declaration from the person making the appeal and/or the Lands Committee;
- (g) the dispute resolution body may conduct such investigation or hold any hearings as it deems necessary to dispose of the appeal; and
- (h) the dispute resolution body may establish any procedures necessary to conduct an appeal, provided such procedures are not inconsistent or in conflict with this Land Code or any Land Law.

**Dispute resolution body**

33.5 Whenever a dispute resolution body is required under the terms of this Article of this Land Code it shall be composed of three (3) individuals and shall be established as follows:

- (a) the Council and the person making the appeal shall each appoint one individual within five (5) days of the notice of appeal being received by the First Nation;
- (b) the two individuals appointed by the Council and by the person making the appeal shall appoint the third individual. In the event the two individuals are unable to come to an agreement on the appointment of the third member of the dispute resolution body within five (5) days of them being appointed, then the dispute shall be referred to the Lands Advisory Board established under the Framework Agreement and if necessary the third individual to the dispute resolution body shall be appointed by the Lands Advisory Board.

**Stay of matter**

33.6 A matter appealed shall be stayed and no action taken on the matter pending the disposition of the appeal.

**Improper influence**

33.7 Any attempt by a person making an appeal or by an Immediate Family member of such person to improperly influence the decision of the dispute resolution body will result in the automatic rejection of the appeal.

**Power on appeal**

33.8 The dispute resolution body may, after hearing an appeal

- (a) confirm or reverse the decision, in whole or in part;
- (b) substitute its own decision for the decision appealed from;
- (c) direct that an action be taken or ceased; or
- (d) refer the matter or dispute back for a new decision.

**Majority decision**

33.9 All decisions and actions of the dispute resolution body shall be in accordance with a majority vote.

**Decision final**

33.10 A decision of the dispute resolution body is final and binding, subject to any exception established by a Land Law.

**Written decisions**

33.11 Decisions of the dispute resolution body must be in writing, signed by the person chairing the dispute resolution body or by an officer designated by the dispute resolution body to do so.

**Reasons**

33.12 The dispute resolution body may give reasons for its decision, and shall do so in writing if a party to the proceedings requests them before, or within fourteen (14) days after, the date of the decision.

**34. Indemnity and Liability Coverage**

**Indemnity**

34.1 Members of the Council, the Lands Committee, a dispute resolution body and officers and employees engaged in carrying out any matter related to the administration of Kahkewistahaw Lands are indemnified and saved harmless from all claims, liabilities and demands of any kind or nature whatsoever arising from the performance of their obligations and duties under this Land Code, a Land Law or a Land Resolution, provided they have not acted fraudulently or negligently in the performance of their obligations and duties.

**Liability coverage**

34.2 The Council may, but is not obligated to, arrange, maintain and pay for insurance coverage for its officers and employees engaged in carrying out any matter related to the administration of Kahkewistahaw Land to indemnify them against personal liability from the performance of those duties.

**Extent of coverage**

34.3 The extent of any insurance coverage shall be determined by the Council.

**35. Offences**

**Offences**

35.1 Subject to any laws of the First Nation, any person who contravenes a provision of this Land Code is guilty of an offence and liable on summary conviction to a fine of not more than one hundred thousand (\$100,000) dollars, to imprisonment for a period of not exceeding two years less a day or to both.

**Application of the Criminal Code**

35.2 Unless some other procedure is provided for by a Land Law, the summary conviction procedures of Part XXVII of the *Criminal Code*, as amended from time to time, apply to offences under this Land Code or under a Land Law or an Interest or Licence.

**36. Amendments to Land Code**

**Community approval**

36.1 Subject to section 36.2, all amendments to this Land Code must receive community approval by Ratification Vote to be effective.

**Council amendment**

36.2 Section 6.1 maybe amended by the Council to add land that is subject to this Land Code as evidenced in a Land Resolution.

**37. Commencement**

**Commencement date**

37.1 This Land Code came into force on December 22, 2011.